United Nations A/AC.109/2013/L.13

General Assembly

Distr.: Limited
19 March 2013

Original: English

Special Committee on the Situation with regard to the Implementation of the Declaration on the Granting of Independence to Colonial Countries and Peoples

Special Committee decision of 18 June 2012 concerning Puerto Rico

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13-26428 (E) 110413

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I. Introduction

1. At its 7th meeting, on 18 June 2012, the Special Committee adopted draft resolution A/AC.109/2012/L.7 on the question of the Special Committee decision of 20 June 2011 concerning Puerto Rico. In paragraph 11 of the resolution, the Special Committee requested the Rapporteur to submit a report on the implementation of the resolution. The present report was prepared by the Rapporteur in compliance with that request. It considers Puerto Rico in the light of previous reports prepared by the Rapporteur, recent political, economic and military developments in Puerto Rico and action taken by United Nations bodies on the matter.

II. Background information

A. General

2. Puerto Rico is the most easterly and smallest island of the Greater Antilles, in the Caribbean Sea. It has a land area of 8,959 km^2, including the small nearby islands of Vieques, Culebra and Mona. More than three fourths of Puerto Rico is mountainous and the range that runs its length reaches an elevation of 1,338 m at its highest point.

3. As at July 2010, the population, estimated to be 3,978,702,[1] was primarily Spanish speaking, although a certain number also speak English. According to United States of America census estimates, Puerto Rico's estimated rate of population growth in 2009 was just under 0.3 per cent. In 2010 the total population decreased by 2.2 per cent as compared to 2000, owing to migration and a lower birth rate. The majority of persons leaving the island today are young professionals, implying brain drain. According to United States Census Bureau information, 359,585 Puerto Ricans settled in the continental United States between 2000 and 2007; during the 1980s that figure was approximately 491,000, and had reached almost half a million in the 1950s and 1960s. An estimated 4.6 million Puerto Ricans currently live in the United States about 620,000 more than on the Island.

4. Over the past six decades, the island's demography evolved from an agricultural to an urban/industrial society, with slower population growth, higher life expectancy and massive migration to the United States.

5. United States citizenship is granted to people born in Puerto Rico. They do not have the right to vote in United States presidential or congressional elections unless they reside on the United States mainland. In addition, the Supreme Court of Puerto Rico has recognized the existence of Puerto Rican citizenship in a court decision. The Puerto Rican Department of State issues a certification of such citizenship, which Puerto Ricans may claim through a protocol established by the Department.

6. The main political parties in the Territory differentiate themselves mostly by their position on the ultimate political status of Puerto Rico, none being satisfied with the status quo. The Partido Popular Democrático (PPD) favours an enhanced Commonwealth status that is non-territorial and non-colonial. Non-territorial refers to ceasing to be subject to the territorial clause of the United States Constitution.

[1] CIA Factbook. Available from www.cia.gov/cia/publications/factbook; see Puerto Rico.

United States citizenship would be retained but Puerto Rico would have greater governmental authority over its own affairs and more latitude to establish regional and international relations. The Partido Nuevo Progresista (PNP) favours Puerto Rico's full integration as a state of the United States. Support for PPD remains slightly higher than for PNP. The third party, the Partido Independentista Puertorriqueño (PIP), favours independence for the island. There are pro-independence groups and organizations that do not participate in the elections because they consider that elections within a colonial context do not represent a true democratic exercise, while some cast strategic votes in favour of the PPD candidate for Governor, in order to prevent the ascension to power of statehood supporters.

7. Two new organizations, the Partido del Pueblo Trabajador and the Movimiento Unión Soberanista registered at the Puerto Rico State Elections Commission and participated in the 6 November 2012 elections with minimal results. Both are developing platforms that emphasize improving social and working conditions in Puerto Rico and environmental protection, while the Movimiento Unión Soberanista also upholds the importance of national sovereignty and a constitutional assembly under international law to address the status issue.

B. Constitutional and political status

8. Puerto Rico currently holds commonwealth status with the United States. The 1952 Constitution of the Commonwealth of Puerto Rico is described in detail in paragraphs 91 to 119 of the Rapporteur's report of 1974 (A/AC.109/L.976). In brief, the Government consists of: (a) a Governor elected for four years at each general election; (b) a Legislative Assembly comprising two houses, the Senate (27 members) and the House of Representatives (51 members), elected by direct vote of the adult population at each general election; and (c) a Supreme Court and lower courts. The jurisdiction of the United States federal courts includes Puerto Rico. Puerto Rico is represented in the United States Government by a Resident Commissioner, who is a non-voting member of the United States House of Representatives, but a voting member of any committees on which he or she sits.

9. There are two judicial systems: Puerto Rico's courts and the United States District Court for the District of Puerto Rico. The latter functions in Puerto Rico with limited jurisdiction and can be reached only for cases under United States federal law or cases where there is diversity of state citizenship, that is, when a citizen of one state sues a citizen of another state. Cases before Puerto Rico's Supreme Court involving federal law can be appealed to the United States Supreme Court. Appeals to the First Circuit are taken from the United States District Court for the District of Puerto Rico, which is a first instance court.

10. Even after the establishment of a constitutional Government for Puerto Rico in 1952, United States congressional authority over Puerto Rico remained unaltered. The United States Congress is vested with plenary power over Puerto Rico including defence, international relations, external trade, monetary and other matters, while the island is vested with local authority over designated areas. All laws concerning the Territory's relations with the United States remained in force through the Federal Relations Act (see A/AC.109/L.976, paras. 120-132), under which Puerto Rico was brought within the trade, tariff and monetary systems of the United States. The United States also undertook responsibility for the defence of Puerto Rico. In 1958,

Puerto Rico's Legislative Assembly requested changes in the Federal Relations Act, but they were not enacted. In 1959, three bills requesting changes in the political status of the Territory were submitted to the United States Congress, but no action was taken on any of them.

11. The results of a 1993 plebiscite, with virtually identical options to those offered in a previous plebiscite in 1967, were 48.4 per cent for the status quo (Commonwealth), 46.2 per cent for statehood and 4 per cent for independence. Following this result, and a request for clarification by the Legislative Assembly of Puerto Rico, Congress replied that the definition contained expectations that were not viable (see A/AC.109/1999/L.13, paras. 172-180). The Legislative Assembly then voted to hold another plebiscite in 1998.

12. The results of the plebiscite held on 13 December 1998 were as follows: 50.4 per cent for "None of the above", an option included by means of court action pursued by PPD; 46.7 per cent for statehood; 2.3 per cent for independence; 0.3 per cent for free association; and 0.06 per cent for Commonwealth. In the plebiscite, independence supporters divided themselves by also casting votes with the "None of the above" option, in an act of repudiation of what was considered an undemocratic exercise. Some political and civil society sectors increasingly question the validity of plebiscites where the Government of the United States is not bound by the results, and also whether the United States is actually willing to extend statehood. Many also call for a process of self-determination and decolonization in conformity with General Assembly resolution 1514 (XV) and resolutions of the Special Committee on Decolonization on the matter.

13. In July 2005, a vote was held whereby 84 per cent of voters opted in favour of a unicameral legislature for Puerto Rico. Although only 22 per cent of registered voters participated in that referendum, the results triggered a process whereby another referendum was to be held in 2007 to potentially amend Puerto Rico's Constitution and establish a one-house system in 2009. On 29 June 2007, however, the Supreme Court of Puerto Rico ruled that it could not force the Legislative Assembly to initiate a constitutional amendment process to establish a unicameral legislative system.

14. After the 1998 plebiscite, then President of the United States, William J. Clinton, established the President's Task Force on Puerto Rico's Status. On 5 December 2003, then President George W. Bush named the 16 members of his Task Force, at the same time amending President Clinton's executive order so that the Task Force was required to report on the progress made every two years instead of annually.

15. In its December 2005 report, the President's Task Force on Puerto Rico's Status stated that, while the current territorial status might continue so long as Congress desired, there were only two non-territorial options recognized by the United States Constitution, namely, statehood within the United States or full independence. The Task Force concluded that Puerto Rico belonged to but was not a part of the United States. It envisaged a two-stage process to approach the status issue. It first recommended that a "federally sanctioned plebiscite" should take place in 2006 to ascertain whether the people of Puerto Rico "wish to remain a United States territory subject to the will of Congress or to pursue a constitutionally viable path towards a permanent non-territorial status with the United States". The Task Force then recommended that, if the voters chose to change the current territorial

status, an additional referendum should allow them to decide between statehood and independence. If, on the other hand, the voters elected to maintain the current territorial status, the Task Force recommended that plebiscites should be held periodically to "keep Congress informed of the people's wishes".

16. It is important to note that, both before and since the issuance of the 2005 Task Force report, some have questioned whether Puerto Rico's status as a United States territory is consistent with statements that the United States made to the United Nations in 1953 following the adoption of Puerto Rico's Constitution, in requesting that Puerto Rico be removed from the list of Non-Self-Governing Territories. In its official request to the United Nations, the United States stated that Congress had given Puerto Rico the freedom to conduct its own internal government subject only to compliance with federal law and the United States Constitution.

17. Prior to the submission of the official request, the United States representative to the United Nations indicated orally that mutual consent would be needed to make changes in the relationship between Puerto Rico and the United States. That statement notwithstanding, the Department of Justice concluded in 1959 that Puerto Rico remained a territory and fully subject to congressional authority under the territorial clause of the United States Constitution. A broad spectrum of Puerto Rico's political and civil society sectors participating in hearings on Puerto Rico by the Special Committee on Decolonization maintains that the process of consultation of the Puerto Rican people regarding the status issue should take place in the context of international law, United Nations resolution 1514 (XV) and resolutions on Puerto Rico adopted by the Special Committee on Decolonization since 1973.

18. In early 2007, the United States House of Representatives reopened consideration of Puerto Rico's political status, as two pieces of draft legislation aimed at resolving the status issue were debated in the Subcommittee on Insular Affairs of the Committee on Natural Resources. In March 2007, hearings took place on the two approaches.

19. The Puerto Rico Democracy Act of 2007 (H.R.900) was introduced on 7 February. The bill stated, inter alia, that:

> "The Puerto Rico State Elections Commission shall conduct a plebiscite in Puerto Rico during the 111th Congress, but not later than 31 December 2009. The ballot shall provide for voters to choose between only the following two options: (1) Puerto Rico should continue the existing form of territorial status as defined by the Constitution, basic laws, and policies of the United States; (2) Puerto Rico should pursue a path toward a constitutionally viable permanent non-territorial status."

20. A second bill, the Puerto Rico Self-Determination Act of 2007 (H.R.1230), was introduced on 28 February 2007, recognizing the right of the people of Puerto Rico to call a constitutional convention through which the people would exercise their natural right to self-determination and to establish a mechanism for congressional consideration of such decision. The Constitutional Assembly is a procedural mechanism for the decolonization of Puerto Rico, which has gained ground on the island in recent years. This mechanism is supported by the Puerto Rico Bar Association and is mentioned in resolutions of the Special Committee on Decolonization on Puerto Rico. That bill was not voted on by the end of the 2007-2008 congressional sessions.

21. In December 2007, the President's Task Force issued its second report on the question of Puerto Rico's status. Again concluding that there were only two options available under the United States Constitution, the Task Force reiterated the three recommendations that it had put forward in its 2005 report.

22. The press in Puerto Rico widely reported that, on 2 January 2009, President Barack Obama in a message sent to the new Governor of Puerto Rico, Luis Fortuño, reiterated that he would try to resolve the colonial case of Puerto Rico during his first term. In his State of the Union address, delivered after being inaugurated for his second term, President Obama did not mention Puerto Rico as some observers expected.

23. The President's Task Force on Puerto Rico's Status, as constituted under the Administration of President Obama, held its first meeting on 15 December 2009, expanding its focus to include matters affecting Puerto Rico's economic development. President Obama signed an executive order on 30 October 2009 that preserved the Task Force's original mission and required it to provide advice and recommendations to the President and Congress on policies that promoted job creation, education, health care, clean energy and economic development on the islands. The Task Force comprises designees of each member of the President's Cabinet and the Co-Chairs of the President's Interagency Group on Puerto Rico.

24. On 3 March 2010, the Task Force held hearings in San Juan. Testimony reflected a consensus that the Task Force must first address the issue of Puerto Rico's status. The possibility of the Constitutional Assembly serving as a mechanism for deciding Puerto Rico's future political status was also broadly discussed during the hearings. There was objection to changes in the agenda of the Task Force, arguing that it was contradictory to speak of economic development under the colonial model. The third report of the Task Force, issued on 16 March 2011, includes an overview of the relationship between the United States and Puerto Rico and the status issue, an executive summary about its status and economic development and recommendations in relation to Vieques, and a description of its next steps, which include implementation, receiving reports from Task Force members regarding the engagement of United States federal agencies on recommendations presented, and holding at least two summits in Puerto Rico in the next two years focusing on individual subject areas.

25. Most of the content on status consists of recommendations for an accelerated decision process regarding the status issue whereby Puerto Ricans could express their will regarding status options, and action would be taken by the end of 2013 or later. The recommendations regarding status options are that they be status options permissible under the United States Constitution of statehood, independence, free association and nationhood as a free associated State (Commonwealth). The report includes a description of each. The Task Force specifies that the United States Congress has the ultimate authority over the admission of states; and that full independence involves a transition, including regarding citizenship status, which it recommends be honoured for Puerto Ricans who are United States citizens at the time of any transition to independence. The Task Force states that under the Commonwealth option Puerto Rico would remain, as at present, subject to the territorial clause of the United States Constitution, although Puerto Rico's local political autonomy should not be reduced or threatened. It also states that proposals for an enhanced Commonwealth status (Commonwealth with greater powers)

remain problematic because the mutual consent consideration is one that a future Congress could choose to alter unilaterally.

26. Furthermore, the Task Force states "marginal preference" for a two-plebiscite process in which the people of Puerto Rico would first vote as to their preference between becoming a part of the United States through statehood or the Commonwealth, or becoming independent through independence or free association. A second plebiscite would then take place with a choice between available options as limited by the outcome of the first. If independence were chosen, a second vote would take place between full independence and free association. Regarding Vieques, the Task Force recommends measures for accelerating its clean-up, for boosting sustainable growth, for improving the quality of health care for Vieques residents and for protecting Vieques' Mosquito Bay, which is bioluminescent.

27. Reactions to the latest report of the Task Force, as covered by the press in Puerto Rico, were mixed regarding the status recommendations, ranging from welcome on the part of pro-statehood supporters, to statements by proponents of the application of international law to the case of Puerto Rico and those who had stated that the marginal preference of the Task Force for the two-plebiscite process favoured the statehood option. The argument suggested in the last-mentioned case was that, if the choice were to continue to be a part of the United States, in the second plebiscite free associated State supporters would be divided owing to the added option of free association.

28. Another reaction was that the extensive recommendations in the report regarding Puerto Rico's economy and social matters were tied to the status issue, in particular, to a status consultation process seen as favouring statehood since the recommendations regarding Puerto Rico's economy tended to further incorporate Puerto Rico into the United States through its further control by United States federal agencies, including in the areas of education, health, security, the justice system, communications and energy, which were the subject of the recommendations. Based on this further integration into the United States, a future choice by the people of Puerto Rico of Commonwealth status would not be a choice for Commonwealth status as it exists today, but rather for one that would be further integrated into the United States but not an incorporated territory.

29. A plebiscite — the fourth in the past 45 years — took place in Puerto Rico on 6 November 2012, on the same day as Puerto Rico's gubernatorial and municipal elections; also on the same day as the United States Presidential elections. Almost 80 per cent of the island's electorate took part in the plebiscite.

30. Puerto Rican voters were asked two questions: (a) whether they agreed to continue with Puerto Rico's territorial status (Commonwealth Yes or No); and (b) to indicate the political status they preferred from three possibilities: statehood, independence, or "sovereign Commonwealth" — a version of Commonwealth not supported by the PPD. On the first question 970,910 (or 54 per cent) voted "No", expressing themselves against maintaining the current political status, and 828,077 (or 46 per cent) voted "Yes", to maintain the current political status. Of those who pronounced themselves on the second question, 834,191 (or 61.16 per cent) chose statehood; 454,768 (or 33.34 per cent) chose free association, and 74,895 (5.49 per cent) chose independence. However, on the one hand, some argue on the basis of the above result that statehood was the clear victor and that blank votes should not be taken into account. However, 26 per cent of the voters left the second question blank

and there appears to be overall agreement that those voters were not in favour of statehood. Therefore, some maintain that, when the blank/protest votes are factored in, the absolute majority (55 per cent) is actually against statehood. On the basis of the above results, it appears that Puerto Ricans rejected the current commonwealth government status but were unable to agree on an alternative.

31. Puerto Rico has alternatively viewed the plebiscite as an opportunity to improve the island's economic future, a chance to shake off the vestige of its colonial past or a ploy by the Governor to win a second term. Prior to the plebiscite, Senator Alejandro García Padilla, PPD president, who was also challenging Luis Fortuño for the job of Governor, equated free association with independence and called on PPD supporters to vote "Yes" on the first question to maintain the political status quo, while leaving the second part of the ballot blank as their favourite alternative (enhanced commonwealth) had not been included as a specific option. Some pro-independence groups were also in favour of boycotting the plebiscite. Other PPD members, however, openly supported the sovereign free association, which was defined on the ballot as "free and voluntary political association, the specific terms of which shall be agreed upon between the United States and Puerto Rico". Statehood and pro-independence supporters claim that disagreement stems from the fact that it is ultimately up to the United States Congress to provide definitions to those alternatives that it would consider acceptable. In Washington, response to the 2013 plebiscite has been mixed. The interpretations of the results by some members of the United States Congress mirrored the diverse interpretation on the Island.

32. The PPD Governor, Alejandro García Padilla, announced publicly that if the United States Congress did not take action on Puerto Rican political status during 2013, the PPD would promote legislation in favour of celebrations of a Constitutional Assembly, and a member of the Puerto Rican House of Representatives, Hon. Luis Vega Ramos of the PPD, drafted such legislation (Bill 210, presented on 2 January 2013).

III. Recent developments

A. Political developments

33. As described in previous reports, apart from general political questions, three specific issues have been raised before the Special Committee in recent years as resulting from the political status of Puerto Rico and its relationship with the United States: (a) the United States military presence in Puerto Rico, particularly on the island of Vieques; (b) the imprisonment in the United States of pro-independence Puerto Ricans accused of seditious conspiracy and weapons possession; and (c) the application of the death penalty to Puerto Ricans convicted on federal charges. In recent years, the issue of increased political persecution has been raised.

34. Throughout the incumbency of the Government of Puerto Rico elected in 2008, the major newspapers on the island reported on its intolerance towards minority views and violations of civil rights. Since 2010 they have reported on police abuse, of the compulsory nature of membership in the Puerto Rican Bar Association, a civil rights organization founded more than 140 years ago. In

September 2011, the United States Department of Justice issued a report[2] in which concern was expressed regarding the excessive use of force by the Puerto Rico police, for example against striking students. The report concluded that the police had violated the civil rights of broad sectors of the population. It also indicated police corruption. In September, the United States Attorney General's office issued a report noting that Puerto Rico led all United States districts in the number of public corruption convictions (130) in 2011.

35. Puerto Rico's new Governor, Alejandro García Padilla of the PPD, was inaugurated on 2 January 2013 following a narrow victory in the 6 November elections. He secured 47.8 per cent of the vote against 47 per cent for Mr. Fortuño. After eight years in the minority, the PPD now controls both the legislative and the executive branches for the first time since 2004.

36. In the Final Declaration of its first summit on 27-28 January 2013, the Community of Latin American and Caribbean States (CELAC, its Spanish acronym) emphasized that Puerto Rico is Latin American and Caribbean and noting that the resolutions regarding Puerto Rico adopted by the Special Committee on Decolonization stated that it considers Puerto Rico a matter of interest to CELAC.

37. The issue of the Puerto Ricans accused of seditious conspiracy and weapons possession and imprisoned in the United States for more than 30 years has also been covered in previous reports. In essence, a number of Puerto Rican organizations and political and civil leaders have claimed over the years that these were essentially political prisoners and that they received disproportionately long sentences. In August 1999, President Clinton offered to release the prisoners conditionally, if they formally renounced violence. The offer was accepted by 11 of the original 15 prisoners, while 1 accepted a deal whereby he would be set free in five years. During 2002, 2 more of the original 15 prisoners were released although 1, Antonio Camacho Negrón, was rearrested in August 2006 by the Federal Bureau of Investigation. Of the two remaining prisoners, Carlos Alberto Torres was paroled in July 2010, while Oscar López Rivera (now 70 years old) was denied parole on 18 February 2011 and remains in a federal prison in Indiana. His appeal against that decision was rejected. Campaigns, in particular for the release of Oscar López Rivera, have continued. On 7 June 2012, Puerto Rican activist Tito Kayak started a two-leg lone high-seas voyage from Ciudad Bolivar, Venezuela, to San Juan, Puerto Rico, and then from San Juan, Puerto Rico, to Washington, D.C., United States of America, to protest the United States incarceration of Puerto Rican political prisoner Oscar López Rivera. Oscar López Rivera is said to be among the longest-held political prisoners in the history of Puerto Rico and in the world. On 21 February 2013, *El Nuevo Día*, Puerto Rico's highest circulation daily newspaper, published an editorial which calls on the President of the United States, Barack Obama, to pardon Oscar López Rivera, and an International Human Rights conference held in San Juan in December 2012 was dedicated to him and divulged information on his case.

38. The National Boricua Human Rights Network submitted a petition for executive clemency to President Obama, urging him to exercise his constitutional power of pardon to commute Oscar López Rivera's sentence from 70 years to time served and release him, noting that, by May 2013, he will have served 31 years in United States prisons.

[2] See www.justice.gov/crt/about/spl/pr.php.

39. Avelino González Claudio, who was arrested in March 2008, was released on 6 December 2012. His brother, Norberto González Claudio, who was arrested on 10 May 2011, was recently sentenced to five years in a United States prison while the campaign for his release has intensified owing to his frail health.

40. According to the Puerto Rican media and as reflected in recent resolutions of the Special Committee on Decolonization on Puerto Rico, there is a consensus among Puerto Ricans in favour of the release of those imprisoned for cases related to the struggle for independence. In late 2007 the Senate of Puerto Rico adopted a resolution in favour of the release of the prisoners.

41. Lolita Lebrón, who was incarcerated in United States prisons from 1954 to 1979 for pro-independence actions, died on 1 August 2011.

42. The issue of the application of the death penalty to Puerto Ricans convicted of crimes despite the abolition of the death penalty in Puerto Rico was described in detail in the 2000 report (A/AC.109/2000/L.3, para. 23). A 4 February 2013 editorial in *The New York Times* referred to the abolition of the death penalty in Puerto Rico and called on the United States District Attorney to seek a life sentence in the case of *U.S. v. Lashaun Cassye*, mentioned in A/AC.109/2012/L.13. Currently, another certified death penalty case in Puerto Rico is that of Alexis Candelaria. According to a report by Edgardo Roman, coordinator of the Puerto Rican Coalition against the Death Penalty, the objective of the Federal District Attorney in Puerto Rico is to win the first death penalty conviction in Puerto Rico. Certified death penalty cases in Puerto Rico result in the Island having one of the highest rates per capita of any State or territory within the United States.

B. Military developments

43. As previously reported, for many years Puerto Rico held an important military-strategic position within the United States Naval Forces Southern Command. In addition to its other military operations in Puerto Rico, from 1941 to May 2003, the United States Navy operated on Vieques, an island of just under 10,000 inhabitants located eight miles off the east coast of Puerto Rico. Vieques was used for naval gunfire support, air-to-ground ordnance training and amphibious assault exercises. Details of the military exercises conducted on Vieques during the period when the Navy occupied part of the island and of the related civil disobedience campaigns, arrests and lawsuits are to be found in previous reports of the Special Committee. According to a news release after the cessation of the military operations, the Department of the Navy retained responsibility for the environmental clean-up of the property and would demolish and remove all facilities and structures in the area.

44. Following the withdrawal of the Navy from Vieques, three related issues remained to be clarified: (a) the future development of Vieques and its environmental clean-up; (b) definitive conclusions regarding the effects of the military exercises on the health of Vieques residents; and (c) the future of the United States Roosevelt Roads Naval Station on the main island of Puerto Rico. Information on previous plans for the socioeconomic development of Vieques can be found in document A/AC.109/2010/L.4.

45. There have been reports of speculation regarding land and property in Vieques, and calls have been made for input by locals to be taken into account by entities involved in the clean-up and development of the island. Health and transportation between the main island of Puerto Rico and Vieques and Culebra have become tremendous problems for the islands' residents and have led to protests there. Health issues include lack of medications and X-ray services, and problems in hospital delivery rooms.[3]

46. Vieques has been sectioned off for the purpose of the clean-up activities, with a portion of the eastern part transferred to the Fish and Wildlife Service of the United States Department of the Interior, to be added to the existing Vieques National Wildlife Refuge. The United States Navy managed approximately 14,600 acres on the eastern portion of Vieques, which were used for amphibious training exercises and air-to-ground manoeuvres. Unexploded ordnance and remnants of exploded ordnance, which contain hazardous substances, have been identified there and in the surrounding waters. The United States Environmental Protection Agency (EPA) has also indicated that the hazardous substances associated with ordnance that might be present in Vieques include TNT, napalm, depleted uranium, mercury, lead and other chemicals.

47. On the western portion of Vieques, the Navy operated an ammunition facility until 1948. The facility was reactivated in 1962 and closed in 2001. Later that year, the Navy transferred 3,100 acres to the Department of the Interior, 4,000 acres to the Municipality of Vieques and 800 acres to the Puerto Rico Conservation Trust.

48. In February 2005, the Vieques portion of the proposed Atlantic Fleet Weapons Training Area site was placed on the EPA National Priorities List of the most hazardous waste sites in the country.

49. In March 2008, a federal inter-agency agreement was announced between EPA, the United States Department of the Navy, the United States Department of the Interior and the Commonwealth of Puerto Rico for the clean-up of portions of Vieques and its surrounding waters. The agreement requires that the environmental impacts associated with past and present activities on Vieques and its surrounding waters be thoroughly investigated and that appropriate actions be taken in order to protect the community and the environment.

50. Culebra Island, located about nine miles north of Vieques, was also part of the United States Navy training facilities. Although military activities ceased on Culebra in 1975 in response to public safety concerns, however, clean-up of the island has been slow due in part to legal issues regarding the use of federal funds.

51. Some 7,000 Vieques residents collectively sought compensation for health and property damage in the billions of dollars in a lawsuit, *Sánchez et al v. United States*, in which they claimed that the United States Navy had been negligent by exposing the 10,000-strong population of Vieques to dangerous levels of toxins for more than 50 years, leading to a cancer rate in Vieques 30 times higher than the rest of Puerto Rico, and other long-term effects. The plaintiffs' lawsuit failed.

52. On 8 December 2011, in a 361-page report released for public comment,[4] The United States Agency for Toxic Substances and Disease Registry, while accepting

[3] *El Vocero*, 19 August 2010.

[4] Available from www.atsdr.cdc.gov/hac/pha/vieques/2011_ViequesReport.pdf.

local claims that there was a higher incidence of cancer and other health problems on Vieques relative to the rest of Puerto Rico, said that there was no proof that the problem was linked to United States military activity. The long-awaited report was widely criticized by Puerto Rican officials and Vieques residents long resentful of health problems attributed to the United States Navy, which used the island as a bombing range for six decades. Although the report all but concludes a federal investigation into health problems on Vieques, critics have vowed to continue their fight on behalf of the sick. The Resident Commissioner of Puerto Rico and United States Congressman Steve Rothman have also opposed the report (A/AC.109/2012/L.13).

53. In the new report, the Agency, referring to the scientific data presented about health problems on Vieques, said that the limitations associated with those analyses, introduced considerable uncertainty and made interpretation difficult. It also said that elevated levels of some chemicals found in people's bodies could be attributed to causes other than military activity. It suggested that United States officials could work with the Government of Puerto Rico to obtain additional samples and keep track of health conditions on Vieques.

54. The report contains the warning that some areas of the former bombing range continue to present a risk, stating that recently collected data demonstrated the remaining potential for localized contamination, which, if people frequented those areas, could be of health concern. The United States Navy has said that its forces accidentally fired 263 rounds of ammunition tipped with depleted uranium on the Vieques range in 1999, violating federal law.

55. According to some observers, the new report contains conclusions recycled from the 2003 report and lacks credibility. Public comments were to be submitted to the Agency for Toxic Substances and Disease Registry by 8 March 2012, subsequent to which it would issue a final report that would include recommendations for future work to be carried out on Vieques.

56. Leaders of anti-military organizations in Puerto Rico, including Wanda Colón Cortés of the Caribbean Project for Justice and Peace, and Sonia Santiago of Mothers against War, have denounced projects to build modern military facilities (A/AC.109/2012/L.13), as an expansion of the United States military presence in Puerto Rico.

C. Economic developments

57. Puerto Rico has been in recession from 2006 to 2011 with debts amounting to an estimated $68 billion. The fiscal outlook remains fragile. It is estimated that growth will be held back by high unemployment, which, at 13.7 per cent, is one of the highest in the Latin American and Caribbean region. Crime rates — also linked to illegal activities — are soaring. Drastic spending cuts — such as the dismissal of thousands of public sector workers — have provoked widespread social discontent.

58. Puerto Rico has an industrialized economy with particular characteristics derived from its island geography and its close links to the United States economy. A number of tax incentives extended to United States corporations operating in Puerto Rico have been eliminated, including section 936 of the United States Internal Revenue Code, which was especially generous. According to recent

estimates, in 2012 the economy expanded by a modest 0.7 per cent. In 2013 and 2014, economic expansion is expected to reach 1.2 per cent and 2 per cent, respectively.

59. In recent reports of the Puerto Rico Planning Board and the Puerto Rico Department of Labor and Human Resources, the Government's budget deficit is put at $1.29 billion. Data from those entities also reflect a gross national product growth between 2000 and 2009 of -0.2 per cent. In addition, in 2007 the public debt (the debt of the central Government, the municipalities and public corporations) accounted for 77.59 per cent of the gross national product, rising to 94.04 per cent in 2009. Furthermore, over the past five years 60,000 public sector jobs have been lost, including 41,000 since 2009. Data show that 44.8 per cent of Puerto Rico's population is living below the poverty line. Bankruptcy cases (including both business and personal bankruptcy) numbered 10,184 in 2009 and 11,810 in 2010, representing an 11.5 per cent increase over the course of one year.[5]

60. In November 2011, the Government of Puerto Rico joined interested sectors, to lobby the United States Congress for a new amendment (H.R.3020) to the federal Internal Revenue Code that would allow certain corporations there to elect to be treated as domestic (i.e., United States) corporations. With such amendment, the Territory could continue to be an offshore tax haven for multinational corporations. Tax breaks have existed for over 60 years, yet have had little impact on high unemployment and serious social problems, which have escalated.

61. In 2010, foreign corporations operating in Puerto Rico earned more than $35 billion in profits, which represents an increase of $2.5 billion over those generated in 2008 and 2009.

62. In a report made available on the Puerto Rico Government website on trends and projections for the economy of Puerto Rico, prepared with financial support through a United States federal grant, it was stated that after a period of significant economic expansion during the 1950s and 1960s (with average annual growth of 5.3 per cent and 7.0 per cent, respectively) Puerto Rico's economy had experienced a consistent, although gradual, slowdown for the past four decades. Real average annual economic growth contracted from 3.5 per cent in the 1970s to 2.0 per cent in the 1980s and 2.8 per cent in the 1990s, and was expected not to exceed 0 per cent from 2000 to 2010. Real growth by decade had declined since the 1970s. From 2000 to 2010, only 2003 saw a growth rate above 2.5 per cent, lower than the previous decade growth average of 2.7 per cent. During that same period, private employment had fallen by 3.9 per cent, or 28,416 jobs, while public employment, including all branches of the Government, had increased by 2,283 employees. For the fiscal year 2009, the average unemployment rate had reached 13.4 per cent, up by an estimated 2.5 per cent in a year. Meanwhile, private employment had been decreasing consistently over the past three years, indicating a lack of sources of new employment creation.

63. The policy of privatization of public enterprises or their components as an economic development measure has met with discontent. Despite broad protests against a proposal to privatize administration of Puerto Rico's Luis Muñoz Marín International Airport, the Federal Aviation Administration approved the contract with Aerostar Airport Holdings. Under its present economic duress, the credit of the

[5] Puerto Rico Planning Board, 2009 Economic Report, and the Government Development Bank.

Puerto Rican Government has been downgraded as bonds sold have descended almost to the junk-bond level.

64. As an austerity measure to reduce Puerto Rico's then $3.2 billion budget deficit and address the issue of high public sector employment, the Government of Puerto Rico began public sector layoffs in May 2009, when 10,400 public employees were laid off. In addition, 7,000 more workers were laid off in October 2009 and a further 2,000 in January 2010, bringing the total to almost 20,000. The stated objective of the Governor of Puerto Rico was to reduce Government spending by $2 billion.

65. According to the Puerto Rico Planning Board, in the period 2009-2010, the manufacturing industry lost 14,000 jobs. Sales of cement to the construction industry fell by 22.7 per cent between January and October 2010.[6]

66. Meanwhile, the agricultural sector remains small and is declining. According to official agricultural statistics, Puerto Rico imports 85 per cent of the food that its residents consume, owing to lack of ability to compete with the economies of scale of larger agribusiness firms abroad. Furthermore, Puerto Rico reduced its agricultural production by 20 per cent between 2003 and 2008.

67. Puerto Rico's services sector has grown in importance in recent years, with tourism a main component. It is estimated that, for every 100 hotel jobs, there are an additional 178 jobs in related activities. Published figures indicate that around 4.5 per cent of the workforce is employed in the sector. Following the 2008 global economic slowdown, tourism began to pick up in 2012. Currently, calls are being made, including by Pedro Pierluisi, Puerto Rico's re-elected Resident Commissioner in Washington, to exempt Puerto Rico from United States federal maritime laws, whose application is deemed to raise the cost of living on the Island.

IV. Previous action taken by the United Nations

A. General

68. Since 1953, the United States has maintained a consistent position regarding the status of Puerto Rico and the competence of United Nations organs to examine that status, based on resolution 748 (VIII), by which the General Assembly released the United States from its obligations under Chapter XI of the Charter of the United Nations. It has maintained that Puerto Rico has exercised its right to self-determination, has attained a full measure of self-government, has decided freely and democratically to enter into a free association with the United States and is therefore beyond the purview of United Nations consideration. The Puerto Rican forces in favour of decolonization and independence have contested this affirmation. In paragraph 9 of resolution 748 (VIII), the General Assembly expressed its assurance that due regard would be paid in the eventuality that either of the parties to the mutually agreed association might desire any change in the terms of that association.

69. Information on action taken by United Nations bodies with regard to Puerto Rico prior to 1974 is contained in the 1973 report of the Rapporteur

[6] Ibid.

(A/AC.109/L.976). Information since then can be found as follows: A/AC.109/L.1191 and Add.1 (for 1974-1976); A/AC.109/L.1334 and Add.1-3 (for 1977 and 1978); A/AC.109/L.1436 (for 1979-1981); A/AC.109/L.1572 (for 1981-1985); A/AC.109/1999/L.13 (for 1984-1998); A/AC.109/2000/L.3 (for 1999); A/AC.109/2001/L.3 (for 2000); A/AC.109/2002/L.4 (for 2001); A/AC.109/2003/L.3 (for 2002); A/AC.109/2004/L.3 (for 2003); A/AC.109/2005/L.3 (for 2004); A/AC.109/2006/L.3 (for 2005); A/AC.109/2007/L.3 (for 2006); A/AC.109/2008/L.3 (for 2007); A/AC.109/2009/L.13 (for 2008); A/AC.109/2010/L.14 (for 2009); A/AC.109/2011/L.13 (for 2010) and A/AC.109/2012/L.13 (for 2011).

B. Action taken by the Special Committee

70. At its 1st meeting, on 23 February 2012, by adopting the suggestions relating to the organization of work put forward by the Chair (see A/AC.109/2012/L.2), the Special Committee decided to take up the item entitled "Special Committee decision of 21 June 2010 concerning Puerto Rico" and to consider it at plenary meetings.

71. At the 3rd meeting, on 11 June 2012, the Chair of the Special Committee drew attention to a number of communications received from organizations requesting to be heard on Puerto Rico by the Committee. The Special Committee agreed to accede to those requests and heard a number of representatives of the organizations concerned at its 6th and 7th meetings (see A/AC.109/2012/SR.6 and 7).

72. At the 6th meeting, on 18 June 2011, the representative of Cuba introduced draft resolution A/AC.109/2012/L.7.

73. At its 7th meeting, also on 18 June, following statements by Egypt (on behalf of the States Members of the United Nations that are members of the Movement of Non-Aligned Countries), Nicaragua, Venezuela (Bolivarian Republic of), Bolivia (Plurinational State of), Iran (Islamic Republic of), Ecuador, Syrian Arab Republic and Cuba (see A/AC.109/2012/SR.7), the Special Committee adopted draft resolution A/AC.109/2012/L.7 without a vote. Following the adoption of the resolution, a statement was made by the representative of Cuba.

C. Action taken by the General Assembly

74. During the sixty-seventh session of the General Assembly, no draft resolution on this issue was submitted to the Assembly for action.